IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CRIMINAL JURISDICTION

CRIMINAL WRIT PETITION NO.1317 OF 2006

Pappukumar @ Satyanarayan Durgaprasad Gupta .. Petitioner

versus

The State of Maharashtra & ors.. Respondents

Ms.Nasrin Ayabi,Advocate (appointed) for Petitioner

Ms.A.S.Pai,A.P.P.for Respondents

CORAM : J.N.PATEL AND

SMT.ROSHAN DALVI, JJ

DATED : 25th September, 2006

P.C.

1. Heard.

2. The petitioner has filed this petition through jail challenging his categorisation by the State

Government in category Rule 5 (a) of the guidelines issued by the government for pre-mature release of prisoners sentenced to life imprisonment or to death sentence committed to life imprisonment after 18th December, 1978.

3. The petitioner was prosecuted along with others for having committed offences punishable under sections 302, 396, 452 read with section 34 by the Court of Sessions for Greater Bombay in Sessions Case No.123 of 1990. By the judgment and order dated 3rd September, 1993 the petitioner along with a co-accused have been found guilty on all counts and sentenced to suffer imprisonment for life and to pay fine of Rs.1000/- on two counts.

4. It is the case of the petitioner that he does not fall in the category of professional criminal or habitual offender and therefore, his categorisation under Rule 5 (a) by the respondent-State is not correct and deserves to be quashed and set aside.

5. The learned A.P.P. has made available to the learned counsel for the petitioner (Amicus Curie) appointed for the petitioner the judgment and order

of the trial Court in Sessions Case No.123 of 1990 in which the petitioner along with a co-accused has been convicted for the offences under sections 302,396,452 read with section 34 of IPC and an appeal was also preferred against the same before this Court which came to be dismissed. The judgment and order clearly makes out a case against the petitioner for categorising him under Rule 5 (a) which provides for " Murder committed by dacoits and robbers in the act of committing dacoities and robberies". As in the present case, the petitioner along with two others committed robbery at the residence of the victim and thereafter he committed murder, the State Government has rightly categorised him under Rule 5 (a) of the guidelines.

6. Therefore, there is no merit in the petition.

Petition is dismissed.

7. The Registrar (Judicial) to communicate this order to the petitioner-prisoner through the Superintendent of Jail, Nasik Road Central Prison, Nasik.

(Smt R.S.Dalvi,J) **(J.N.Patel,J)**